

This document is intended to give keepers of natural science collections guidance on the legalities of holding specimens. It is not intended to be definitive: for further information/clarification please contact DEFRA (Animal Health and Veterinary Laboratories Agency AHVLA) or Natural England.

Whilst the CITES material in this document is relevant to the whole country, the last three sections only consider English law. We will try and update the document to cover the rest of the UK as soon as possible.

If anyone has anything they would like to add/amend to this document, experiences any problems operating under this guidance or would like some help or advice, please contact NatSCA.

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1) Convention on the International Trade in Endangered Species of wild flora and fauna (CITES)

CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. It came into force on 1st July 1975, and today it accords varying degrees of protection to more than 30,000 species of animals and plants, whether they are traded as live or dead specimens e.g. fur coats or dried herbs. CITES works through a system of permits and certificates which can only be issued once certain criteria have been met. The species covered by CITES are listed in one of three Appendices (I, II and III), according to the level of protection they need.

The European Community is not a Party to CITES in its own right. However, all 27 EC Member States are Parties to CITES and the EC has

implemented CITES through the common EC Wildlife Trade Regulations since 1984.

EC Council Regulation 338/97 and Commission Regulation 865/06 fully implement CITES throughout the EC. Species are listed on one of four Annexes (A, B, C and D) according to the level of protection they need. The EC Annexes contain all of the species listed on the CITES Appendices and some non-CITES species. The EC Annexes may also afford greater protection than that offered by CITES, for example the Eurasian kestrel (*Falco tinnunculus*) is listed on Appendix II of CITES and Annex A of the EC Regs.

For copies of the EC Annexes and further information see:

www.defra.gov.uk/animalhealth/CITES and

<http://animalhealth.defra.gov.uk/about/publications/cites/guidance/GN20.pdf>

UK CITES Management Authority:

Wildlife Licensing and Registration Service, AHVLA, DEFRA, 1/17 Temple Quay House, 2 The Square, Temple Quay, Bristol, BS16EB. Tel: 0117 372 8774. Wildlife.licensing@animalhealth.gsi.gov.uk

UK CITES Scientific Authorities:

Flora = Kew Gardens

Royal Botanic Gardens, Kew, Richmond, Surrey, TW9 3AB

Fauna = Joint Nature Conservation Committee

Monkstone House, City Road, Peterborough, PE1 1JY

1a) Article 10 Certificates

Commercial use of Annex A specimens is strictly regulated throughout the EC. The prohibitions on commercial use can be found in Article 8.1 of Regulation EC 338/97 which states:

‘The purchase, offer to purchase, acquisition for commercial purpose, display to the public for commercial purposesⁱ, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in Annex A shall be prohibited’

The Regulation provides exemptions to these prohibitions and commercial use may be permitted by obtaining an Article 10 certificate, issued by DEFRA, Wildlife Licensing and Registration Service.

For museums, this means that any specimens listed under Annex A that are used for any of the commercial activities outlined above must have an Article 10 certificate. Examples of this might include:

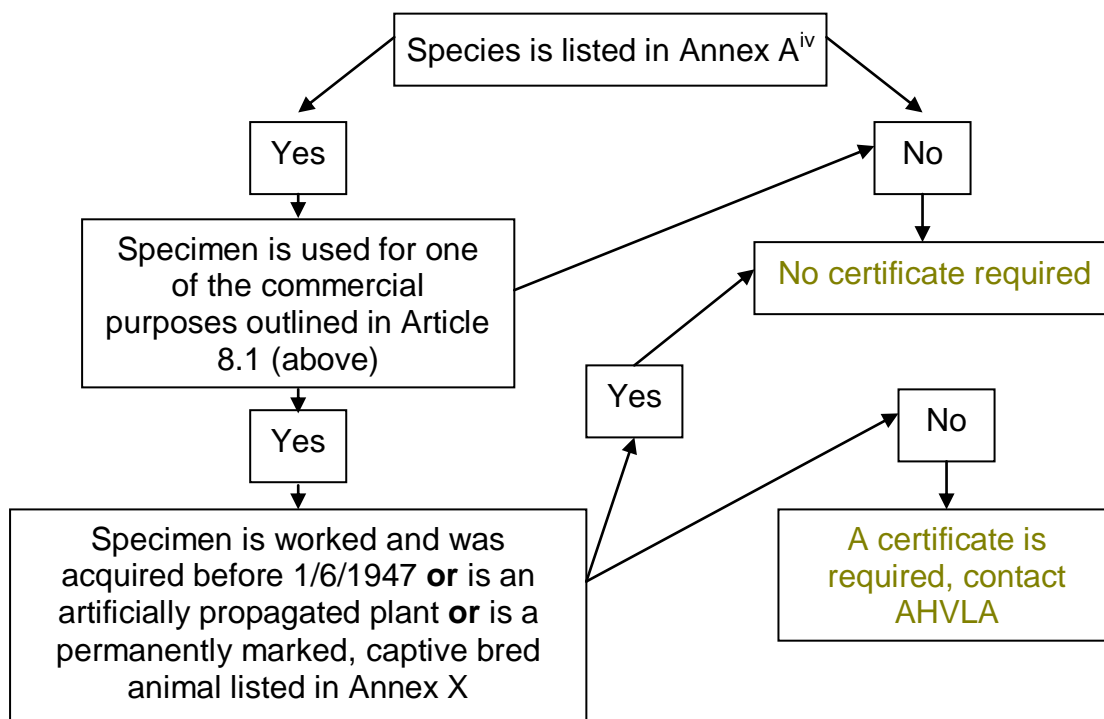
- specimens within a display for which an entry fee is charged
- specimens for which a fee is charged to work on them
- specimens that are loaned out for money.

- Selling postcards featuring the images of Annex A specimens is not considered to constitute 'commercial use' by AHVLA.
- If a normally free-entry museum holds a special event for which a charge is made (e.g. for entry) then any CITES specimens used in that event will need to be covered by a certificate – any CITES specimens held by the museum but NOT involved in that particular event would NOT need to be covered (as they are not being used commercially).

There are exemptions. An Article 10 certificate is not required for:

- worked specimens acquired before 1st June 1947ⁱⁱ
- artificially propagated plant specimens
- specimens of captive born and bred animals of the species listed in Annex X (EC Reg. 865/2006)ⁱⁱⁱ and hybrids thereof

Does a specimen need an Article 10?



If you think you need an Article 10 certificate you need to contact AHLVA for further advice. If an Article 10 is subsequently applied for, the specimen will need to be identified (see UNEP-WCMC for correct nomenclature) and the application should be accompanied by full details of origin and acquisition. If you have any problems in identifying a specimen, please contact NatSCA for help.

1b) Article 60 Certificates

An Article 60 is not compulsory and NatSCA believe that only a handful of museums would find an Article 60 certificate appropriate/useful. Museums are not required to hold an Article 60 certificate.

As an alternative to obtaining an individual Article 10 certificate for each specimen, museums and zoological establishments may apply for an Article 60 certificate. This single certificate will cover all the Annex A specimens in their collection. Article 60 certificates are only issued to scientific institutions that are using their Annex A specimens for captive breeding, research or education aimed at the conservation of the species. An Article 60 only allows the sale of Annex A specimens to other scientific institutions holding such a certificate. An Article 60 certificate is primarily intended to facilitate the movement of Annex A specimens between institutions or display of large numbers of Annex A specimens without the burden of applying for individual Article 10 certificates.

“Article 60 of Commission Regulation EC 865/2006 allows EU countries to issue a certificate to individual scientific institutions so that the various prohibitions on commercial use set out in Article 8(1) of EC Regulation 338/97 do not apply to them.”

To apply for an Article 60, you will need to provide AHVLA with records for all the Annex A specimens (which do not come within the worked items derogation) on educational display, or being used for conservation related research, at the point the application is made. They also look at the credentials of an institution and apply specific criteria before issuing an Article 60.

AHVLA has produced detailed guidance for customers wishing to apply for an Article 60 certificate. See: <http://animalhealth.defra.gov.uk/about/publications/cites/guidance/GN20.pdf>

To summarise: only specimens of species listed on Annex A of the EC CITES Wildlife Trade Regulations that are being used for commercial purposes require EC certificates.

Exceptions to this rule include:

- Worked specimens that predate 1st June 1947
- Artificially propagated plants
- Captive bred and permanently marked specimens of species listed on Annex X

Museums holding Annex A specimens for non-commercial purposes do not require EC certificates (normal CITES rules apply for exports/imports with non-EU countries).

1c) Stricter Measures

It is worth bearing in mind that there are some CITES species for which stricter measures apply: Tigers, Bears, Rhinos, African Elephants, Primates, Seals, Mother of Pearl and birds' eggs. These measures are mainly designed to further restrict trade in these animals and should not unduly affect a

museum. However, some of this legislation might be relevant: for example the commercial use of un-worked Rhino horn and African Elephant ivory is banned in the UK. For further information on these particular measures please see:

<http://www.defra.gov.uk/animalhealth/cites/strictermeasures.htm>

2) European Protected Species

If your collection includes any plants or animals that feature on the European Protected Species list^y that were obtained after 1994 then you will need to operate under the terms of possession licence WML Gen-L02. This is a general licence for possession of dead specimens for museums, research and educational establishments and you need to ensure you are operating under its terms. This licence can be found at:

<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/generalllicences.aspx>

You do not need to apply for this licence but according to condition 5, **each English organisation should notify Natural England that they are exercising the licence**. It is also a requirement that you keep a record of specimens held under this licence in an Excel type spreadsheet. Some museums have been told that their own, up-to-date, collections database is a suitable record.

To do this contact:

England: wildlife@naturalengland.org.uk
stuart.miller@naturalengland.org.uk
0845 6014523

In Wales contact:

Wales: CCW, Mae-y-Ffynnon, Penrhosgarnedd, Bangor, Gwynedd,
LL57 2DW
0845 1306229

In Scotland there is not a general licence. However, if you contact Scottish Natural Heritage you can obtain a licence as a museum or educational institution.

Scotland: Scottish Natural Heritage, Great Geln House, Leachkin Road,
Inverness, IV3 8NW
01463 725000
ben.ross@snh.gov.uk

3) Badgers

Badgers are covered by different legislation but you do not need a licence to have badgers in the collection. You do need to be satisfied that the badger was lawfully killed/died of natural causes and, if possible, record the circumstances it was found in - date, time, and any photos. You will only need to provide this evidence if you are challenged.

4) Eggs

NatSCA is still seeking clarification on the law surrounding the ownership of bird eggs.

ⁱ As the CITES Management Authority for the UK, it is DEFRA who ultimately decide what constitutes “commercial use”. We have had some clarification from them but if you need more than can be found in this document then please contact AHVLA directly. Please let NatSCA know if you find out any further information.

DEFRA have some guidance notes on the subject:

<http://www.defra.gov.uk/animalhealth/publications/CITES/Commercial%20Use.pdf>

ⁱⁱ At present (August 2011) the definition of a ‘worked specimen’ is being considered by the European Union. For further information on this please contact the AHVLA.

ⁱⁱⁱ A list of 21 Annex A species, all of which are bred in captivity in such numbers that the chance of wild taken specimens being found in trade is negligible.

In order to meet this exemption, specimens must be captive bred and permanently and uniquely marked in accordance with Article 66(1) of Regulation EC 865/06.

Taxidermy specimens are only considered to be permanently marked if a microchip has been encased in resin in the head cavity.

The species in question are: *Anas laysanensis*, *Anas querquedula*, *Aythya nyroca*, *Branta ruficollis*, *Branta sandvicensis*, *Oxyura leucocephala*, *Catreus wallichi*, *Colinus virginianus ridgwayi*, *Crossoptilon crossoptilon*, *Crossoptilon mantchuricum*, *Lophophorus impejanus*, *Lophura edwardsi*, *Lophura swinhoii*, *Polyplectron emphanum*, *Syrnaticus ellioti*, *Syrnaticus humiae*, *Syrnaticus mikado*, *Columba livia*, *Cyanoramphus novaezelandiae*, *Psephotus dissimilis*, *Carduelis cucullata*. For an up-to-date list see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R0865:en:NOT>

^{iv} For an up-to-date list see: www.unep-wcmc.org

^v An up-to-date list of European Protected Species can be found at <http://www.naturalengland.org.uk/ourwork/regulation/wildlife/species/europeanprotectedspecies.aspx>